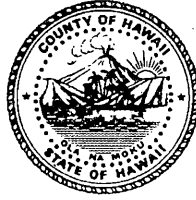


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **22 88** BILL NO. 183

AN ORDINANCE AMENDING SECTION 25-8-25 (KEA'AU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO VILLAGE COMMERCIAL – 10,000 SQUARE FEET (CV-10) AT KEA'AU, PUNA, HAWAI'I, COVERED BY TAX MAP KEY: 1-6-002:082.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-25, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kea'au, Puna, Hawai'i, shall be Village Commercial – 10,000 square feet (CV-10):

Beginning a 1/2" pipe found at the South corner of this parcel of land and the Southwesterly corner of Lot 1183, (Map 34) at the North boundary of Laukahi Place, (Lot 1146, Map 34), (40' wide), the coordinates of said point of said point of beginning referred to Government Survey Triangulation Station "Ola'a" being 8,686.66 feet North and 6,157.89 feet East, and running by azimuths measured clockwise from True South:

- | | | | |
|----|--------------|--------|--|
| 1. | 103° 31' 00" | 52.86 | feet along said North boundary of Laukahi Place, (Lot 1146, Map 34) to a 1/2" pipe, set, thence; |
| 2. | 109° 01' 30" | 109.87 | feet along same, to the South corner of Lot 1147, (Map 34), to a 1/2" pipe, found, thence; |
| 3. | 184° 27' 00" | 42.75 | feet along the East boundary of said |

Lot 1147, to the West corner of Lot 1182-A, (Map 34), to a mag nail, set, thence;

- 4. 248° 40' 00" 108.51 feet along the South boundary of said Lot 1182-A, to the West boundary of Lot 1183, (Map 34) to a calculated position in an 18" tree, thence;
- 5. 338° 40' 00" 139.85 feet along said West boundary of Lot 1183, to the Point of Beginning. Enclosing an area of 11,254 sq. ft., more or less.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2016 Edition, as amended), the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
 - (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.
- A. The applicant, successors or assigns ("Applicant") shall be responsible for complying with all of the stated conditions of approval.

- B. Construction of the proposed development, as substantially represented by the Applicant, or as permitted by the zoning district classification, shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the Applicant shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and proposed structure(s), paved driveway access and paved parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
- C. Prior to commencement of the proposed use, the Applicant shall secure and finalize all required building permits from the Department of Public Works Building Division, including a change of use building permit for the existing structure to be converted from use as a single-family dwelling to a commercial use permitted in the zoning district classification.
- D. Prior to the issuance of a water commitment by the Department of Water Supply (DWS), the Applicant shall submit anticipated maximum daily water usage calculations, as prepared by a professional engineer licensed in the State of Hawai'i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this ordinance in accordance with Rule 5 of the DWS's Rules and Regulations. The Applicant is responsible for maintaining valid water commitments until such time that required water facilities charges are paid in full.
- E. The Applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the DWS.
- F. Prior to obtaining certificate of occupancy, the Applicant shall implement any improvements required by the Fire Department and/or Department of Water Supply to ensure that fire protection requirements can be met for commercial zoning.
- G. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Planning Department prior to Final

Plan Approval. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.

- H. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
- I. All driveway connections and construction within the Laukahi Place Right-of-Way shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- J. Access to Laukahi Place, including the provision of adequate sight distances, shall meet with the approval of the Department of Public Works.
- K. Prior to obtaining certificate of occupancy, the Applicant shall provide improvements to the subject property's Laukahi Place frontage consisting of, but not limited to pavement widening with concrete curb, gutter, and sidewalk, drainage improvements, signs and markings, streetlights, and any relocation of utilities, meeting the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works.
- L. The Applicant shall be responsible for the design, purchase, and installation of streetlights and traffic control devices as may be required by the Traffic Division, Department of Public Works.
- M. Should the Applicant develop a land use which the Planning Department, in consultation with the Department of Public Works, determines will generate over 50 peak hour trips, a Traffic Impact Analysis Report (TIAR) shall be submitted for review and approval by the Department of Public Works prior to Final Plan Approval. The Applicant shall implement, when required by the Department of Public Works, at no cost to the County, any transportation system improvements to Laukahi Place that may be deemed necessary by the Department of Public Works.
- N. The method of sewage disposal shall meet with the requirements of the Department of Health.
- O. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional

disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

P. Should the Applicant develop residential units on the subject property, the Applicant shall make its fair share contribution to mitigate the potential regional impacts of the development with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval or Final Subdivision Approval, whichever is applicable, and shall be based on the actual number of additional residential units or lots created. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a combined value of **\$10,033.83** per multiple family residential unit or lot. The total amount shall be determined with the actual number of residential lots according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit or lot (single family residential unit or lot) shall be allocated as follows:

1. **\$4,949.40** per multiple family residential unit or lot to the County to support park and recreational improvements and facilities;
2. **\$156.43** per multiple family residential unit or lot to the County to support police facilities;
3. **\$481.18** per multiple family residential unit or lot to the County to support fire facilities;
4. **\$214.47** per multiple family residential unit or lot to the County to support solid waste facilities; and
5. **\$4,232.35** per multiple family residential unit or lot to the County to support road and traffic improvements.

Q. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- R. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the Applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Plan Approval.
- S. An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances:
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the Applicant, successors or assigns, and that are not the result of their fault or negligence.
 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
 4. The time extension shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
 5. If the Applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.
- T. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

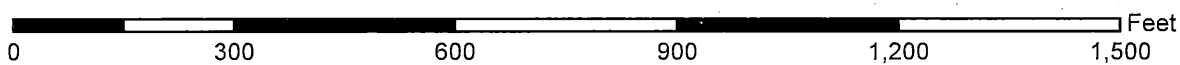
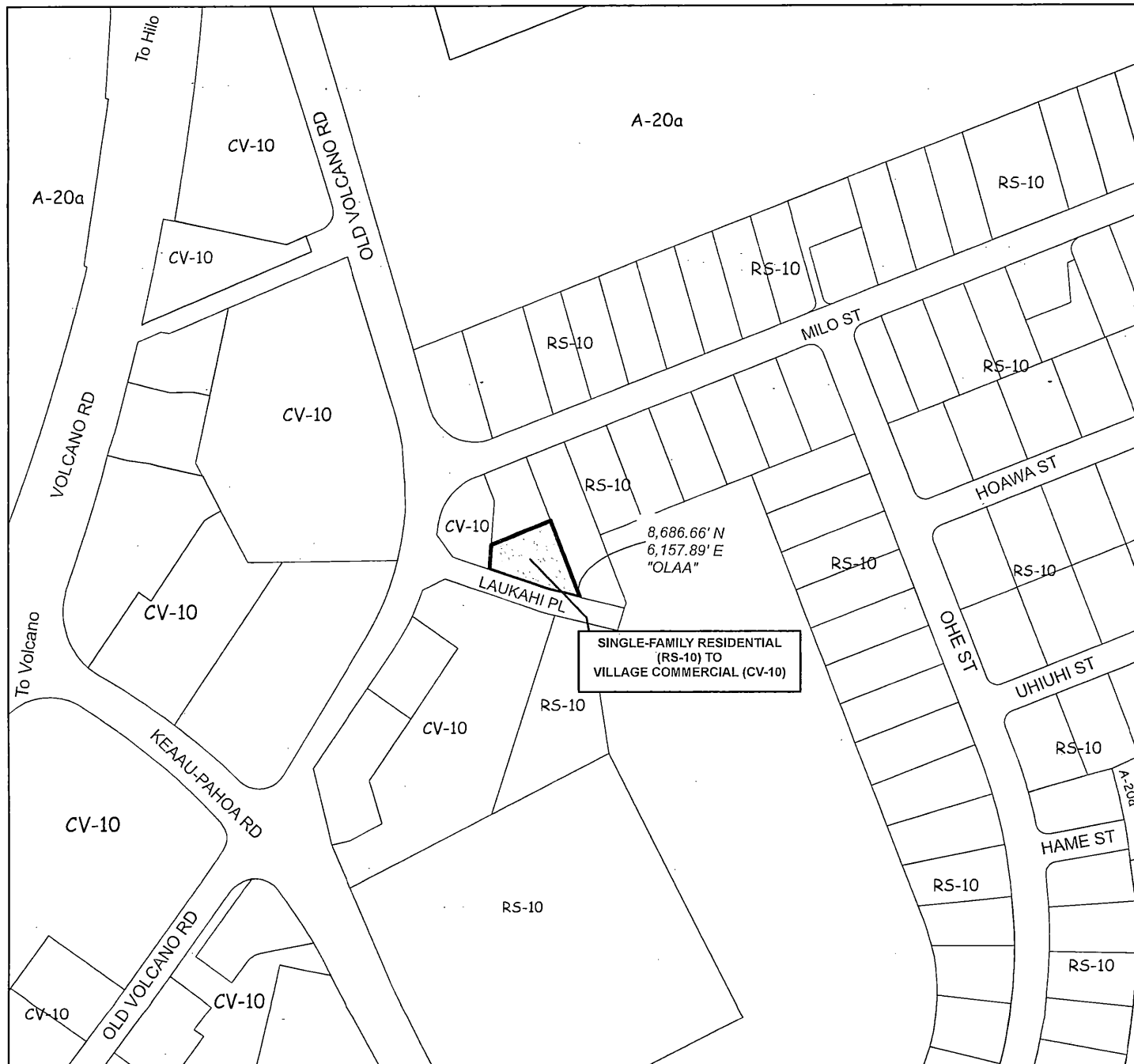


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona _____, Hawai'i

Date of Introduction: July 6, 2022
Date of 1st Reading: July 6, 2022
Date of 2nd Reading: July 19, 2022
Effective Date: August 3, 2022

REFERENCE Comm. 832 _____



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-25 (KEAAU ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 SINGLE-FAMILY RESIDENTIAL (RS-10) TO VILLAGE COMMERCIAL (CV-10)
 AT KEAAU, PUNA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 1-6-002:082

DATE: February 1, 2022

EXHIBIT "A"

Lawrence Palmer
 Map: 1437

OFFICE OF THE COUNTY CLERK
 County of Hawai'i
Kona, Hawai'i

COUNTY CLERK
 COUNTY OF HAWAII

2022 AUG -5 PM 2:20

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: July 6, 2022
 First Reading: July 6, 2022
 Published: July 15, 2022

REMARKS: _____

Second Reading: July 19, 2022
 To Mayor: July 27, 2022
 Returned: August 5, 2022
 Effective: August 3, 2022
 Published: August 26, 2022

REMARKS: _____

	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder			X	
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards			X	
Villegas	X			
	7	0	2	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung			X	
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	8	0	1	0

ROLL CALL VOTE

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 3rd day
 of August, 2022.


 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON


 COUNTY CLERK

Bill No.: 183
 Reference: C-832/PC-70
 Ord No.: 22 88